

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated March 14, 2006. A Petition for Extension of Time (three months) and the fee therefor are submitted herewith.

Claims 3-7, 10-18, 21-25, 28-36, 39-43, 46-50 and 53-54 are presented for examination.

In the most recent Office Action, claims 3, 19 and 39 are rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite. Claims 1-3, 5-6, 8-10, 17-21, 23-24, 26-28, 35-39, 41-42, 44-46 and 53-54 are rejected under §102(e) as allegedly anticipated by Servan-Schreiber et al. (6,892,354). Claims 4, 7, 11-16, 22, 25, 29-34, 40, 43 and 47-52 are rejected under §103(a) as allegedly obvious over Servan-Schreiber in view of Official Notice. Applicant respectfully traverses all rejections for at least the following reasons.

By the above amendments, claims 1-2, 8-9, 19-20, 26-27, 37-38, 44-45 and 51-52 have been canceled without disclaimer or prejudice to their subsequent reintroduction in this or a continuing application. Claims previously dependent upon any canceled claim have been rewritten in independent form. No new matter has been added by these amendments.

Turning to the rejection under §112, second paragraph, the Merriam-Webster on-line dictionary also defines “animation” as “animated cartoon”. “Animated cartoon” is itself defined as “a motion picture that is made from a series of drawings, computer graphics, or photographs of inanimate objects (as puppets) and that simulates movement by slight progressive changes in each frame.” Additionally, the Free On-line Dictionary of Computing, accessible at dictionary.com, defines animation as “the creation of artificial moving images.” Neither definition is alleged to define the full scope of the term “animation” as it is used in the claims, however, they are offered to illustrate that, in light of the present specification, one of ordinary skill in the art would be apprized of the scope of the claims. “If the claims read in light of the specification reasonably apprized those skilled in the art of the scope of the invention §112 demands no more.” *Solomon v. Kimberly-Clarke Corp.* 16 F.3d 1372, 55 U.S.P.Q. 2d 1279 (Fed. Cir. 2000). Turning to the rejection of claim 19, as amended above the claim is recited in more typical form, including a program of instructions stored on a computer readable medium, as suggested by the Examiner. Therefore, applicant respectfully submits that the rejections under §112 have been obviated, and kindly requests favorable reconsideration and withdrawal.

Turning to the applied references, claims 3, 21 and 29 each recite a system, instruction or method, respectively, for reproducing advertisements by animation. The Office Action alleges that these features are taught in Servan-Schreiber. Applicant respectfully disagrees. To be extent that the Office Actions treatment of this claim feature was limited by the rejection under §112, second paragraph, obviated above, applicant respectfully requests favorable reconsideration. Moreover, contrary to the assertions of the Office Action, Servan-Schreiber does not teach or suggest display of an advertisement by animation, a moving picture of any analogous concept. The portions of Servan-Schreiber cited by the Office Action to support the allegation that this feature is taught or suggested pertain only to downloading data and displaying an advertisement, not to any form of animation. Therefore, Applicant respectfully submits that claims 3, 21 and 29 are patentably distinguished over Servan-Schreiber.

Turning to the rejection of claims 5, 23 and 41, these claims recite a feature of selecting one of a plurality of advertisements based upon personal history information of a user. Said personal history information comprises personal history, advertisement access history, or reply history information for questions. These features are neither taught nor suggested by Servan-Schreiber. In contrast to the claimed invention, Servan-Schreiber discloses that advertisements to be displayed are selected according to statistical profiles of users, including items searched for and information accessed. See col. 4, lines 50-60. However, this does not necessarily correspond to personal information of the kind recited in the present claims. For example, where a user accesses the internet for job or other requirements, the statistical profiles will not necessarily correspond to those attributes that indicate that persons characteristics, for example, age, gender, family structure, purchasing history information, advertisement access history information or reply history information for questions and the like. Therefore, claims 5, 23 and 41 will be seen as patentably distinguished over Servan-Schreiber.

Turning then to claims 10, 28 and 46, these claims recite user side equipment downloading data and software required to use the data from the server via the network. In contrast, Servan-Schreiber does not disclose the downloading of software, it only discloses downloading advertising data. Therefore, claims 10, 28 and 46 will be seen as patentably distinguished over Servan-Schreiber.

Turning then to claims 17, 35 and 53, recited in these claims is adjusting the transfer speed based upon the state of presentation of the advertisement while data is transferred between the server and the user side equipment. While Servan-Schreiber discloses checking a downloading time, it does not teach or suggest adjusting the data transfer speed, therefore, claims 17, 35 and 53 will be seen as patentably distinguished over Servan-Schreiber. Claims 18, 36 and 54 each depend from independent claims 17, 35 and 53. These dependent claims are each separately patentable but are offered as patentable for at least the same reasons as their respective underlying independent base claims. Favorable reconsideration and withdrawal of the rejection is kindly requested.

Turning to the rejections under §103(a), applicant respectfully traverses the Office Action's taking of Official Notice with respect to the features recited in each of the claims so rejected. Applicant kindly requests that the Examiner cites appropriate prior art references to support the allegation of Official Notice. Moreover, the statements made in the rejection of the claims under §103(a) are directed to speculation of how certain web-sites or browsers may or may not be used. See, e.g., Office Action at pages 9 and 10. However, it has been held by the courts that "[the Office] may not ... resort to speculation, unfounded assumptions, or hindsight reconstruction to support deficiencies in its factual basis." *In re GPAC, Inc.*, 57 F.3d 1573, 35 U.S.P.Q. 2d 1116 (Fed. Cir. 1995). Therefore, Applicant respectfully submits that the rejections under §103(a) are poorly taken, and kindly requests favorable reconsideration and withdrawal of the rejection.

In light of the foregoing, Applicant respectfully submits that all claims recite patentable subject matter. In the interest of brevity, Applicant has addressed only so much of the rejections as is considered sufficient to demonstrate the patentability of the claims. Applicant's failure to address any portion of the rejections should not be construed as an acquiescence in the propriety of such portions not addressed. Applicant maintains that the claims are patentable for reasons other than those specifically discussed, *supra*.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

If the Examiner has any reservation in allowing the claims, and believes that a telephone interview would advance prosecution, he is kindly requested to telephone the undersigned at his earliest convenience.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
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Respectfully submitted,



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